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17 Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 OAKLAND DIVISION

22 ORACLE USA, INC., et al.,
23 Plaintiffs,
24 v.
25 SAP AG, et al.,
26 Defendants.

Case No. 07-CV-1658 PJH (EDL)

**DECLARATION OF WILLIAM R.
THOMAS IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION TO
EXCLUDE EXPERT TESTIMONY OF
STEPHEN K. CLARKE**

Date: September 30, 2010
Time: 2:30 p.m.
Courtroom: 3, 3rd Floor
Judge: Hon. Phyllis J. Hamilton

1 I, WILLIAM THOMAS, declare as follows:

2 I make this declaration based on personal knowledge and, if called upon to do so, could
3 testify competently thereto.

4 1. I am currently employed by TomorrowNow, Inc. to maintain its computer server
5 hardware systems. Previously, I was employed by TomorrowNow as its Global Information
6 Technology Director.

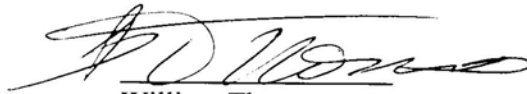
7 2. TomorrowNow was in the business of providing customer support for businesses
8 using certain PeopleSoft, J. D. Edwards and Siebel enterprise application software products.
9 TomorrowNow used Oracle database software internally to assist in developing some of the fixes
10 and updates that it provided to its customers using certain PeopleSoft and Siebel enterprise
11 application software.

12 3. To the best of my knowledge, TomorrowNow only used the Oracle database
13 software internally and it did not distribute the database software or any portion thereof or any
14 modifications thereto to any other person or entity. Nor did TomorrowNow give access to or
15 make available the software or any portion thereof or modifications thereto to any other person or
16 entity outside of TomorrowNow and its agents.

17 4. I gave a deposition in this case on December 4, 2009. During that deposition,
18 counsel for Plaintiffs did not ask me whether TomorrowNow used Oracle database software for
19 its internal business operations. Had that question been asked, I would have confirmed that
20 TomorrowNow only used the Oracle database software for its internal business operations.

21 I declare under penalty of perjury, under the laws of the United States and the State of
22 California that the foregoing is true and correct.

23 Executed this 7th day of September, 2010 in Byran, Texas.

24 
25 William Thomas

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